



29 MAY 2007

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In re Application of	:	
SILLIKENS	:	
Application No.: 10/559,949	:	DECISION ON PETITION
PCT No.: PCT/EP2004/002553	:	
Int. Filing Date: 08 March 2004	:	UNDER
Priority Date: 10 June 2003	:	
Attorney Docket No.: 9250-161	:	37 CFR 1.497(d)
For: NUCLEIC ACID SEQUENCES THAT	:	
CAN BE USED AS PRIMERS AND PROBES	:	
IN THE AMPLIFICATION AND DETECTION	:	
OF SARS CORONAVIRUS	:	

This decision is in response to applicants' renewed petition under 37 CFR 1.497(d) filed in the United States Patent and Trademark Office (USPTO) on 08 May 2007.

BACKGROUND

On 08 March 2004, applicants filed international application PCT/EP2004/002553, which designated the United States and claimed a priority date of 10 June 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 23 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 December 2005 (10 December 2005 being a Saturday).

On 09 December 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 23 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage were required.

On 22 December 2006, applicants filed a "PETITION TO CORRECT INVENTORSHIP UNDER 37 CFR 1.497(d)". The petition was accompanied by a statement by Marlieke Overdijk, a statement by Saskia van de Laar, a consent of assignee statement, a declaration of inventors,

and the surcharge under 37 CFR 1.492(h).

On 08 January 2007, a decision was mailed dismissing applicants' petition under 37 CFR 1.497(d). Specifically, it was noted that a showing under 3.73(b) had not been provided and that the person signing the consent of assignee statement did not have apparent authority to sign on behalf of the legal entity.

On 23 January 2007, the decision was returned to the USPTO as undeliverable. (It appears from the copy of the returned envelope that applicant's address was not visible.)

On 28 March 2007, a Supplemental decision was mailed which included a copy of the original decision. It was indicated that the time limit ran from the mailing date of the Supplemental Decision rather than the mailing date of the original decision.

On 08 May 2007, applicants filed the instant renewed petition under 37 CFR 1.497(d) which was accompanied by a "CONSENT OF ASSIGNEE TO CORRECTION OF INVENTORSHIP UNDER 37 CFR 1.48(a) [sic] AND STATEMENT UNDER 37 CFR 3.73(b)".

DISCUSSION

37 CFR 1.497(d), provides:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92^{bis} subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

- (1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in Sec. 1.17(i); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and
- (4) Any new oath or declaration required by paragraph (f) of this section.

As noted in the supplemental decision mailed 28 March 2007, applicants have satisfied items (1) and (2) and item (4) is not required.

Item (3) has now been satisfied as well.

Declaration of Inventors

While the declaration of inventors filed 22 December 2006 is in compliance with 37 CFR 1.497(a)-(b), it is noted that it is not in compliance with 37 CFR 1.63(a)(2). The full name of P.T.G. Sillekens (family name and at least one given name together with any initial) has not been set forth. See MPEP § 605.04(b).

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision including processing the application in the name of P.T.G. Sillekens, Marlieke Overdijk, and Saskia van de Laar as inventors.



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